REMARKS

Final rejection:

The 132 Declaration of Morgan was not entered by reason of an insufficient declaration in the final paragraph. That deficiency has been cured. The subject matter of the Declaration is the same as previously presented. The Examiner made certain observations regarding the claims, and in particular Claim 16, the only independent claim in the case. The changes suggested by the Examiner's observations have been made. Specifically, Claim 16 now recites the use of "identical electrodes", and that the adult/pediatric mode indicator is an operator adjustable indicator which is set by an operator. It is respectfully submitted that neither Heath nor Ferrari recognize or use universal electrodes for both adults and children, as explained below and in the previous Amendment.

Claim rejections:

Claims 1, 3-5, 7, 10, 15-16, 18, 25 and 26 have been rejected under 35 U.S.C. 102(e) and 103(a) in view of US Pat. 6,134,468 (Morgan et al.) Claim 16 has been amended in accordance with suggestions made by the Examiner.

Amended Claim 16 describes a method comprising the steps of coupling a patient to an AED via a pair of identical universal electrodes suitable for use upon both adults and children which are smaller than conventional adult electrodes and larger than conventional pediatric electrodes for delivering the energy level produced by the AED to a patient; identifying to the AED whether the patient is an adult or a child by operator setting of an operator adjustable adult/pediatric mode indicator;

electronically determining whether the patient requires defibrillation; producing in the AED an energy level appropriate for an adult in the event that the patient is identified as an adult; delivering a first electrical waveform via the universal electrode which is characterized by the energy level appropriate for an adult in the event that the patient is an adult; producing in the AED an energy level appropriate for a child in the event that the patient is identified as a child; and delivering a second electrical waveform via the universal electrode which is characterized by the energy level appropriate for a child in the event that the patient is a child. This method enables ventricular fibrillation to be treated quickly in both adults and children because a rescuer does not have to find and connect a specific adult or pediatric electrode set for the particular patient. Rather, a universal electrode set suitable for all patients can be pre-connected to the defibrillator, saving time and lives. Also, the setting of the adult/pediatric mode indicator shows a subsequent ACLS rescuer at a glance exactly what dose was delivered to the patient.

Claim 16 was rejected under both sections 102 and 103 in consideration of Morgan et al. The Examiner contends that, since Morgan's electrode set is used on children and adults, it meets the claimed limitations of a universal electrode set. The Examiner also contends that the "presence-detect" signal in the energy reduction unit of Morgan's system provides the recited setting of an adult/pediatric mode indicator.

The enclosed Declaration of Carlton B. Morgan, inventor in the Morgan et al. patent, proves otherwise. In the Declaration Mr. Morgan explains that he was

referring in his patent to two specific sizes and types of electrodes: standard electrodes for adult patients and smaller, "pediatric-specific" electrodes for pediatric patients. Mr. Morgan states that there is no suggestion in his patent to use electrodes of any other sizes and that one skilled in the art would not read his patent to suggest the use of any intermediate size electrodes. It is clear from the Morgan declaration that the Morgan et al. patent cannot be read to suggest or infer the use of a universal electrode set which are smaller than conventional adult electrodes and larger than conventional pediatric electrodes as recited in Claim 16.

In his Declaration Mr. Morgan also explains the "presence-detect" function he was describing for the energy reduction unit in his patent. He explains that the variations he describes are all automatic and internally signaling arrangements which signal to the defibrillator that a pediatric electrode is connected. Mr. Morgan was not describing, as he states, an adult/pediatric mode indicator that could be set by a rescuer or that provided an immediate visual indication to an ACLS responder of the dose delivered by the first responder. Accordingly it is respectfully submitted that Morgan et al. cannot be read to anticipate or suggest the use of an adult/pediatric mode indicator as recited in Claim 16.

The Examiner cited patents to Ferrari and Heath for the proposition that 50 cm^2 electrodes for both adults and children are well known. A closer look at the two patents shows that the inventors were only referring to standard adult or pediatric electrode sizes. For instance Ferrari repeats the ANSI/AAMI standard in col. 1, lines 38-42 of this patent, including the 150 cm^2 total area for an adult

electrode set mentioned by Mr. Morgan in his Declaration. He repeats the standard again at col. 4, lines 46-58 where he discloses that his preferred embodiment is two electrodes of 80 cm^2 each, for a total of **160 cm^2**, so that the electrodes can be "of the same size." This passage goes on to state that Ferrari's electrodes can be made in the pediatric size for pediatric use and in col. 6, lines 34-37 Ferrari states that his embodiments are in accordance with the ANSI/AAMI standard.

The meaning of the phrase "of the same size" can be understood by referring to Heath. Heath is using one electrode of 50 cm^2 but the other electrode is 113 cm^2 so that the two electrodes have a total area of **163 cm^2** in accordance with the ANSI/AAMI standard for adult electrodes. When Heath says in col. 13, lines 45-49 that a jumper 196 can be used to adjust for adult and child energy levels, he is saying that his adult electrodes of 163 cm^2 can be used for both adults and children, just as is shown in Morgan et al. Consequently neither Ferrari nor Heath is teaching the use of a pair of universal electrodes for both adults and children which are smaller than adult electrodes (150 cm^2) and larger than pediatric electrodes (45 cm^2).

The remaining pending claims all ultimately depend from Claim 16 and it is respectfully submitted that they are patentable by reason of this dependency.

Claims 8, 9, 11-13, 17, 28 and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Morgan et al. All of these claims ultimately depend from Claim 16 which has been shown above to be patentable over Morgan et al. It is respectfully submitted that these claims are patentable by reason of this dependency.

In view of the foregoing amendment and remarks, it is respectfully submitted that Claims 1, 3-5, 7-13, 15-18, 25-26 and 28-29 are not anticipated by or obvious in view of Morgan et al. Accordingly it is respectfully requested that the rejection of these claims under 35 U.S.C. §102 and §103 be withdrawn.

In light of the foregoing amendment and remarks, it is respectfully submitted that this application is now in condition for allowance. Favorable reconsideration is respectfully requested.

Respectfully submitted,

THOMAS D. LYSTER ET AL.

By: _____
W. Brinton Yorks, Jr.
Reg. No. 28,923

Philips Electronics
22100 Bothell Everett Highway
P.O. Box 3003
Bothell, WA 98041-3003
(425) 487-7152
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